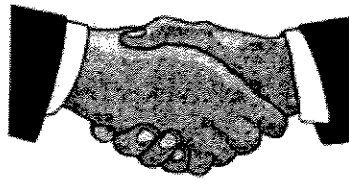


IOSHA

(Indiana Occupational Safety and Health Administration)

CLOSING CONFERENCE GUIDE



Indiana Department of Labor
402 W. Washington St., Room W195
Indianapolis, Indiana 46204

Phone: (317) 232-2655

Fax: (317) 233-3790

TT/Voice: 1-800-743-3333

<http://www.in.gov/labor>

Your workplace has been inspected by the Indiana Occupational Safety and Health Administration (“IOSHA”). Whether you are management or employee, the inevitable question is “What happens next?” This short guide is intended to answer that question and to highlight contact whom may provide additional information in response to your special concerns. It is IOSHA’s hope that the question and answer format will provide easy access to the information you need, but an index of key works is also provided.

If you have additional questions about how to proceed, please do not hesitate to contact us at the numbers indicated.

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1. **When will I be notified of the results of the inspection?**
 - > You will be offered a closing conference at which the compliance officer will provide a “closing conference worksheet.” That worksheet identifies each hazards noted during the walk around portion of the inspection.
 - > Occasionally, the compliance officer or his/her supervisor will notice additional hazards when preparing or reviewing the inspection file. If this happens, you will be offered another closing conference and another worksheet.
 - > If the compliance officer found hazards during the inspection, you will also receive safety orders and notification of proposed penalties by mail.
 - > If the compliance officer has informed you that s/he noted hazards which may be referred to a division of IOSHA with a different specialty, you may consider any activity related to that referral a separate IOSHA inspection.
2. **Will I have to pay a fine?**
 - > If you are the employer and the safety orders you receive list penalty amounts, the answer is “YES.” Only participating in an informal conference or filing a notice of contest as described below effects this answer.
 - > IOSHA does not have the power to fine individual employees or unions.



CORRECTING THE VIOLATIONS DESCRIBED IN THE SAFETY ORDERS DOES NOT RELIEVE AN EMPLOYER OF THE OBLIGATION TO PAY THE FINES INDICATED ON THE SAFETY ORDERS/NOTIFICATION OF PENALTIES.

3. **What do I have to do with the Safety Order/Notification of Penalties?**
 - > Employers must post the safety orders at or near the place each described violation occurred for three working days or until the violation is corrected, whichever period is LONGER.
 - > Employers must post the safety orders and notification of penalties even if the employer contests the safety orders.
 - > Additional inspections may be conducted to ensure compliance with this requirement and failure to comply may result in additional fines.

4. **What if I disagree with the safety orders/penalties or (if I'm an employee or union representative) abatement dates?**

- > Within Fifteen Working Days (Monday through Friday, but not state holidays):
 - ✓ Telephone IOSHA and request an informal conference; and/or
 - ✓ File a written petition for review/contest, which ultimately leads to an opportunity to argue formally that the safety orders and/or penalties are not proper before an administrative law judge.

5. **What is an informal conference?**

- > An opportunity to discuss settlement of any issue created by the inspection, safety orders and notification of penalty and abatement dates established by the safety orders.
- > An informal conference may be requested by: an employer who has received safety orders, affected employees or authorized employee representatives (unions).
- > If an informal conference is requested by an employer, the Director may afford an affected employee or union representative the right to participate.
- > If an informal conference is requested by an affected employee or union representative, the Director may afford the employer the right to participate.

6. **How do I request an Informal Conference?**

- > Informal Conferences must be requested and conducted within fifteen working days (Monday through Friday but not state holidays) of our company's receipt of the safety orders/notification of penalties.
- > If you desire an informal conference, you should request it as soon as possible after you receive your safety orders/notification of penalties in order to ensure that a time slot is available for you during the fifteen (15) day period.
- > Call the office of the Director whose name and signature appears on your safety orders/notification of penalties at the appropriate number below.

Industrial Safety, Discrimination & VPP	Janie Thacker Administrative Asst.	317/232-1979
Construction Safety Compliance	Jerry Lander Director	317/233-3794

- > Informal conferences are usually held at the IDOL's office or via phone.
- > Employer should complete the "Notice to Employees of Informal Conference" included in the safety orders/notification of penalties packet (or see page 13) and post it at or near where the violations occurred.



REQUESTING AN INFORMAL CONFERENCE DOES NOT EXTEND THE FIFTEEN WORKING DAY PERIOD FROM YOUR RECEIPT OF SAFETY ORDERS IN WHICH YOU MAY FILE A PETITION FOR REVIEW/CONTEST OF THE SAFETY ORDERS.

7. What is a petition for review/contest of the safety orders/notification of penalties?

- > For an employer, the notice of contest (also called a petition for review) provides the opportunity to present evidence and argue about the safety orders/notification of penalties before an independent body called the Indiana Board of Safety Review.
- > For an affected employee or union representative, the notice of contest (also called a petition for review) provides the opportunity to present evidence and argue about the abatement dates established by the safety orders before an independent body called the Indiana Board of Safety Review.

8. How do I contest the safety orders/notification of penalties?

- > Postmark a written notice of contest/petition for review before midnight of the fifteenth (15th) working day after your company's receipt of the safety orders (Monday through Friday, but not State holidays) addressed to:

IOSHA
 Indiana Department of Labor
 402 W. Washington St., Room W195
 Indianapolis, IN 46204-2751

- > Or transmit your written notice of contest/petition for review before midnight of the fifteenth (15th) working day to IOSHA at (317) 233-3790.
- > If you are an EMPLOYER, your notice of contest/petition for review must include the following:
 - ✓ The inspection number of the safety orders/notification of penalties you are contesting.
 - ✓ A specific statement of what you are contesting, e.g., all safety order items, all penalties, both, or specific safety order item numbers, penalties, or both.
 - ✓ A statement of the basis for the contest.
- > Must be posted at or near the place where the alleged violations took place so that affected employees may become aware of the contest.
- > If you are an affected EMPLOYEE or UNION REPRESENTATIVE, your notice of contest/petition for review should include the following:
 - ✓ The inspection number of the safety orders which contain the abatement date with which you disagree.
 - ✓ A specific statement of which items contain abatement dates which you content are not reasonable.

9. **What does IOSHA do after I file a notice of contest/petition for review?**

- > If you petition is not timely, IOSHA will deny the petition.
- > IOSHA has five working days to consider your notice of contest/petition for review.
- > IOSHA may affirm, modify, alter or dismiss the safety orders, notification of penalties or abatement dates.
- > If IOSHA affirms the safety orders, notification of penalties and abatement dates, it will notify you by mail that the dispute has been certified to the Indiana Board of Safety Review.
- > If IOSHA modifies or alters the safety orders, notification of penalties or abatement dates, it will issue amended safety orders and employers, affected employees and union representatives have another fifteen (15) working day period in which to request an informal conference or file a notice of contest/petition for review of the amended safety orders/notification of penalties as described above. The amended safety orders/notification of penalties must be posted by an employer just as the original safety orders/notification of penalties were.

10. **What happens when the safety orders/notification of penalties or abatement dates are certified to the Indiana Board of Safety Review?**

- > IOSHA will be represented by its attorney(ies).
- > If the notice of contest was filed by an employer, an affected employee or union representative may request PARTY STATUS, which entitles one to be notified of all hearing dates and times, to be provided copies of all pleadings, and to participate in the hearing. Such notice may be requested by sending a written request to the Indiana Board of Safety Review at the address or facsimile number provided below:

Indiana Board of Safety Review
402 W. Washington St., Room W195
Indianapolis, IN 46204-2751
Fax: (317) 233-3790
Phone: (317) 232-2691
(See sample request on page 14.)

- > If the notice of contest was filed by an affected employee or union representative, an employer may request PARTY STATUS as described above.
- > All pleadings should be served on all parties to the case.
- > The Indiana Board of Safety Review may affirm, modify or dismiss any safety order item, penalty or abatement date.

11. **How are hearings conducted by the Board of Safety Review?**

- > Hearings will be conducted in accordance with the practice of the courts of Indiana, the Indiana Administrative Orders and Procedures Act (I.C. 4-21.5-1.1 et seq.), the Board of Safety Review Rules (615 IAC 1-1-1 et seq.), and the Indiana Open Door Act (I.C. 5-14-1.5 et seq.).
- > The Indiana Board of Safety Review will mail notice of any hearing at least fifteen (15) days before the date of the hearing to all parties, unless the Board orders an expedited hearing.
- > EMPLOYERS must POST notices of hearing where the affected employees can review the notice UNTIL the HEARING STARTS.
- > EMPLOYERS must DELIVER a copy of notice of hearing to a union representing the employees.
- > The evidentiary hearing will be held by an administrative law judge and s/he will issue a written decision. That decision may be appealed to the full Indiana Board of Safety Review.

- > It is important to comply with all orders and deadlines established by the Board of Safety Review. The failure to do so could result in the loss of your case before the opportunity to present evidence or argument at a hearing.
- > Testimony presented to the Board of Safety Review must be under oath.
- > Parties are usually given the opportunity to file written arguments concerning the evidence presented and the law.



FAILURE TO APPEAR AT A HEARING NOTICED BY THE BOARD OF SAFETY REVIEW, OR TO COMPLY WITH A DEADLINE ESTABLISHED BY THE BOARD, COULD RESULT IN THE SAFETY ORDERS/NOTIFICATION OF PENALTIES AND ABATEMENT DATES BECOMING FINAL AS ISSUED.

12. What if I don't agree with the Decision of the Board of Safety Review?

- > You may seek judicial review of that decision in accordance with I.C. 4-21.5-5-5-2.

13. How and when do I submit Proof of Abatement/Corrective Action?

- > On or before the abatement dates contained in the safety orders (unless contested), correct the hazardous conditions noted on the safety orders. (If the safety order states that an item was "Corrected During Inspection", no additional proof of that correction is required.)
- > On or before the abatement dates contained in the safety orders, utilize the Letter of abatement form (See page 15) to inform IOSHA of the changes you have made in your workplace as a result of the safety orders.
 - ✓ State the safety order and item number in the space provided on the form.
 - ✓ State the OSHA standard referenced for that safety order item in the space provided on the form.
 - ✓ Then describe the changes you made to the workplace and the date(s) on which those changes were completed in the portion of the form marked "Corrective Action Taken and Date Abated".

- > Be sure to **COMPLETE** the certification at the bottom of the Letter of Abatement form.

CERTIFICATION	
"We, the undersigned, hereby certify abatement was made."	
Signature of non-salaried or union representative	Title of non-salaried or union representative
Date signed	
Signature of management representative	Title of management representative
Date signed	

Note: Signature of HOURLY EMPLOYEE AND MANAGEMENT OFFICIAL required.

- > In addition to submitting the Letter of Abatement form, you should submit evidence of the corrective actions you have taken.
 - ✓ If the correction is capable of being photographed, take a photograph of that action and include that photograph along with your description of the action taken. (See page 16)
 - ✓ If the corrective action is training employees, ask employees to sign and date a form describing the new training they have received and provide IOSHA with a copy of those signed and dated forms.
 - ✓ If the safety order required the development of a program, please provide a copy of that program.
 - ✓ If you are not sure what information to supply, call the director who signed your safety orders. (See page 6 for numbers)



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SAMPLE FORMS

Indiana Department of Labor
Occupational Safety and Health Administration



NOTICE TO EMPLOYEES OF INFORMAL CONFERENCE

An informal conference has been scheduled with IOSHA to discuss the safety order(s) issued on 08/27/2001. The conference will be held at the IOSHA office located at 402 West Washington Street, Room W195, Indianapolis, IN 46204 on _____ at _____. Employees and/or representatives of employees have a right to attend an informal conference.

(Sample Letter)
REQUEST FOR PARTY STATUS

Date: _____

Indiana Board of Safety Review
Indiana Department of Labor
402 West Washington Street, Room W195
Indianapolis, IN 46204

Re: Commissioner of Labor v. _____
Inspection No. _____

Dear Board of Safety Review:

On behalf of the affected employee, I wish to elect party status in the above referenced case. The _____ is the authorized representative of the employees.

I request that copies of all documents previously filed in this case, and those that are filed in the future, be sent to the following person, as we intend to participate in all aspects of the proceeding:

Name(s): _____
Address: _____

(Name) _____ can also be contacted by telephone at:

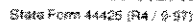
(_____) _____ between the hours of _____ and _____ or

(_____) _____ between the hours of _____ and _____.

Sincerely yours,

Name: _____
Title: _____

cc: (Department of Labor Attorney)
(Company Representative)



INDIANA DEPARTMENT OF LABOR / OSHA COMPLIANCE
32 West Washington Street, Room 185, Indianapolis, Indiana 46204
Telephone: (317) 232-2693
TT / Voice: 1-800-743-3337

NOTE: • The information below can be found in the upper right hand corner of the safety order.

Name of Company	Date of inspection
	Inspection site
	Inspection number

CORRECTIVE ACTION

[illegible]

Please complete and forward this abatement letter to the above address upon completion of abatement. Failure to do so will result in a follow-up inspection. If additional time is needed for the abatement of the items, send a petition for the modification of abatement before the abatement date stated on the safety order.

Photographic evidence of the abated items must be provided, along with this letter. Photographic Worksheets are provided for your assistance in organizing your abatements. Other information concerning abated items includes (but not limited to) training records, copies of programs, directives or memos sent to employees, and air / noise survey results. In the case of items that call for program changes and / or additions, copies of these changes and / or additions must also be provided.

- These forms can be duplicated, if needed.

No person may make a false statement, representation, or certification in any... record, report, or plan, or other document required. A person who knowingly violates this commits a Class B misdemeanor... (IC 22-8-1-1-37.1 & IC 22-8-1-1-49).

CERTIFICATION

"We, the undersigned, hereby certify abatement was made."

Signature of non-salaried or union representative		Title of non-salaried or union representative	
Date signed			
Signature of management representative		Title of management representative	
Date signed			



PHOTO MOUNTING WORK SHEET

State Form 48593 (R / 8-02)

Indiana Department of Labor
Occupational Safety and Health Administration

(Fasten photograph here)

IOSHA complaint or inspection number		Photo ID number	
Date of photo (month, day, year)	Time of photo <input type="checkbox"/> am <input type="checkbox"/> pm	Trade secret material: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Classified material: <input type="checkbox"/> Yes <input type="checkbox"/> No	Name of photographer		
Safety order number	Item	Instance number	
Location (photograph and photographer)			
Description of hazard / Abatement			
THIS SECTION FOR IOSHA USE ONLY			
CSHO number:		Report number	